

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MELVIN L. VIRGIL,

Plaintiff,

22-CV-3169 (CS)

**NOTICE OF MOTION**

-against-

AARON FINN, et al.,

Defendants.

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**PLEASE TAKE NOTICE** that defendants Anthony J. Annucci and Mark Royce (“Supervisory Defendants”), by their attorney, LETITIA JAMES, Attorney General of the State of New York, upon the annexed Memorandum of Law, will move this Court before the Honorable Cathy Seibel, United States District Court Judge for the Southern District of New York, at the United States Courthouse located at 300 Quarropas Street, White Plains, New York, 10601, at a date and time to be determined by the Court, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Complaint on the grounds that:

- (i) Plaintiff fails to state a claim against the Supervisory Defendants for deliberate indifference to Defendant Finn’s alleged PTSD;
- (ii) Plaintiff fails to state a claim against the Supervisory Defendants for deliberate indifference to Defendant Finn’s alleged prior instances of excessive force;
- (iii) Plaintiff is entitled to qualified immunity;
- (iv) Plaintiff fails to plead facts indicating the personal involvement of the Supervisory Defendants; and

(v) Plaintiff should not be granted leave to amend.

Dated: New York, New York

April 14, 2023

Respectfully submitted,

LETITIA JAMES  
Attorney General of the  
State of New York  
Attorneys for State Defendants

By:

/s/ Andrew Blancato  
Andrew Blancato  
Assistant Attorney General  
28 Liberty Street  
New York, New York 10005  
(212) 416- 8659  
[Andrew.Blancato@ag.ny.gov](mailto:Andrew.Blancato@ag.ny.gov)